

## **REMARKS**

The February 16, 2011 Final Office Action identifies the following issues:

- Claims 1, 4, 5, 6, 9, 12, 14, 16, 19, 21, 28, 31, and 32 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hayama (Japanese Patent Number JP 10211851 A).
- Claim 2 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Hayama in view of LeTrudet (U.S. Patent No. 6,666,362).
- Claims 8, 22, 26, and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hayama in view of Jefferson (U.S. Patent No. 4,260,085).
- Claim 13 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Hayama in view of Self (U.S. Patent No. 1,976,146).

The following remarks address each of these issues and place the present application in condition for allowance.

### **Claims 1, 4, 5, 6, 9, 12, 14, 16, 19, 21, 28, 31, and 32 Are Patentable Over Hayama**

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully submit that Hayama does not disclose each and every element as set forth in independent claim 1. Specifically, independent claim 1 includes the element "a platform comprising a floor, a platform side wall extending vertically from a periphery of said floor" [*emphasis added*]. Applicants respectfully submit that Hayama does not disclose, teach or suggest this claim element.

The Office Action at page 3 identifies item 16 as the platform, 16B as the floor, and 16C as the platform sidewall. As shown in Fig. 1 of Hayama, the platform sidewall (16C) does not extend vertically from the floor (16B) [*emphasis added*]. Instead, the sidewall (16C) extends horizontally from (16B) [*emphasis added*]. In addition, Applicants believe that re-orienting the

platform (16) in Hayama so that sidewall (16C) extends vertically from the platform floor (16B) would render the platform (16) incapable of supporting the cargo carrier 12 thus rendering the apparatus in Hayama inoperative.

Moreover, the Office Action on page 12 states that “Hayama discloses the side wall (16C) vertically from the platform floor (16B).” Applicants respectfully disagree with this statement. Applicants believe that the sidewall (16C) of Hayama actually extends horizontally from the platform floor (16B). This can particularly be seen in Figure 1 of Hayama. Again, it is Applicants’ belief that if the sidewall (16C) of Hayama were to extend vertically from the platform floor (16B), the platform (16) in Hayama would not be capable of supporting the cargo carrier 12 thus rendering the apparatus in Hayama inoperable.

Applicants also note that the Office Action on page 12 states that “Figure 3 teaches the side wall (16) of Hayama is perpendicular from the floor (16B). If a plane extends perpendicular from a horizontal plane, then the perpendicular plane extends (upward or vertical) or (downward) from the horizontal plate. Therefore, the side wall (16C) extends upward or vertically from the floor ([1]6B).” While the sidewall (16C) may be perpendicular to the floor (16B), the statement above assumes that the floor (16B) is horizontal. As shown in Figure 3, the floor (16B) is vertical, not horizontal. As such, if the floor (16B) is vertical and the sidewall (16C) is perpendicular to the floor (16B), according to the statement above, the sidewall (16C) must be horizontal. The sidewall (16C), therefore, cannot extend vertically from the floor (16B), as required in independent claim 1.

As dependent claims 4, 5, 6, 9, and 12 depend directly or indirectly from claim 1, Applicants submit that the arguments set forth above apply equally to these claims. Applicants,

therefore, respectfully submit that these claims are likewise allowable over Hayama and respectfully request indication of such.

Consistent with the argument above, the other independent claims 14, 28 and 32 rejected above contain the element, or a variation of “a platform comprising a floor [and] [,] a platform side wall extending vertically from a periphery of said floor” [*emphasis added*]. Applicants, therefore, incorporate the argument above herein and respectfully submit Hayama does not disclose, teach or suggest this claim element. Applicants, therefore, respectfully submit that these independent claims 14, 28 and 32 are allowable over Hayama and respectfully request indication of such.

Finally, Applicants submit that in addition to the reasons above Hayama does not anticipate independent claim 14. Hayama fails to disclose “at least one projection extending *horizontally* outwardly from said container bottom periphery” [*emphasis added*]. Referring to Fig. 3, and in particular, the exploded view thereof, the projection 22 extends vertically not horizontally as required in claim 14. Additionally, Hayama fails to disclose “the slot and projection limit vertical movement between said cargo carrier and said platform.” Again referring to Fig. 3, the slot 22A and projection 22 do not limit vertical movement between the cargo carrier and the platform, the combination instead limit *horizontal* movement [*emphasis added*]. Therefore, independent claim 14 is distinguishable and patentable over Hayama.

As dependent claims 16, 19, 21, and 31 depend directly or indirectly from independent claim 14, Applicants submit that the arguments set forth above apply equally to these claims. Applicants, therefore, respectfully submit that these claims are likewise allowable over Hayama and respectfully request indication of such.

### **Claim 2 Is Patentable over Hayama in View of LeTrudet**

Applicants respectfully submit that as claim 2 depends directly from independent claim 1, it is likewise patentable over Hayama in view of LeTrudet. As previously argued, Hayama fails to disclose a platform comprising a floor, a platform side wall extending vertically from a periphery of said floor. LeTrudet fails to cure this deficiency. Accordingly, Applicants respectfully submit that claim 2 is allowable and respectfully requests indication of such.

### **Claims 8, 22, 26, and 27 Are Patentable over Hayama in View of Jefferson**

Applicants respectfully submit that as claim 8 depends directly from independent claim 1, it is patentable over Hayama in view of Jefferson. As previously argued, Hayama fails to disclose a platform comprising a floor, a platform side wall extending vertically from a periphery of said floor. Jefferson fails to cure this deficiency. Accordingly, Applicants respectfully submit that claim 8 is allowable and respectfully requests indication of such.

Applicants respectfully submit that as claims 22, 26, and 27 depend directly or indirectly from claim 14, they are likewise patentable over Hayama in view of Jefferson. As previously argued, Hayama fails to disclose a platform comprising a floor, a platform side wall extending vertically from a periphery of said floor and at least one projection extending horizontally outwardly from said container bottom periphery. Jefferson fails to cure either of these deficiencies. Accordingly, Applicants respectfully submit that claims 22, 26, and 27 are allowable and respectfully request indication of such.

### **Claim 13 is Patentable Over Hayama in View of Self**

Consistent with the argument above regarding independent claim 1, independent claim 13 contains the limitation of “a platform comprising a floor and a platform side wall extending vertically from a periphery of said floor,” that is not disclosed by Hayama [*emphasis added*]. Moreover, the addition of Self fails to cure this deficiency. Accordingly, Applicants respectfully submit that independent claim 13 is likewise allowable over Hayama in view of Self and respectfully request indication as such.

### **CONCLUSION**

In light of the foregoing, Applicants submit that the application is now in condition for allowance and Applicants respectfully requests allowance thereof. If the Examiner has any questions pertaining to the above, then the undersigned attorney would welcome a phone call to provide any further clarification or a formal interview.

Respectfully submitted,

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